

Practitioner's Docket No. 2373/103

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Richard Courthope Giles, Harley Lawson Pederick

Application No.: 09/936,280

Group No.: 3643

Filed: 03/10/2000

For: Tree Harvesting Apparatus

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Office of PCT Legal Administration

EXPRESS MAIL CERTIFICATE

"Express Mail" label number EV 333084275 US Date of Deposit 11/05/2003

I hereby state that the following *attached* papers are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10, on the date indicated above and is addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration P.O. Box 1450, Alexandria, VA 22313-1450, Attention: Office of PCT Legal Administration:

Renewed Petition Under 37 CFR 1.181, including the following:

- 1) A statement attesting that a search of the file jacket and docket records indicates that the Office Action was not received by the practitioner;
- 2) Two docket record reports where the non-received Office action would have been entered had it been received, the first report showing all docket records for the response deadline and the second report showing all entries for this application;
- 3) Newly executed declaration identifying the corrected filing date of the international application and corrected page numbers;
- 4) Authorization to charge Deposit Account no. 19-4972 for \$130 petition fee and any additional fees that may be due; and
 - 5) A copy of the Decision on Petition Under 37 CFR 1.181 dated September 5, 2003.

Kenneth S. Sachar

Signature of person mailing paper or fee

02373/00103 278544.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Giles, et al.

Atty. Docket:

2373/103

Application No.: 09/936,280

Date: November 5 2003

Int'l Appl. No.: PCT/AU00/00171

Int'l Filing Date: 10 March 2000

For:

TREE HARVESTING APPARATUS

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service in an envelope as "Express Mail Post Office to Addressee", mailing Label Number EV333084275 US, addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450 on November 5, 2003.

Cenneth S. Sachar

Mail Stop PCT

Commissioner for Patents

Office of PCT Legal Administration

P.O. Box 1450

Alexandria, VA 22313-1450

Attn: Office of PCT Legal Administration

RENEWED PETITION UNDER 37 CFR 1.181

Dear Sir:

This petition is being filed to request reconsideration of the "Petition to Reset Period For Response Due to Non-Receipt of Action" filed with the United States Patent and Trademark Office on November 5, 2002. The decision on that petition held that a showing to establish nonreceipt of an Office communication lacked 1) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received and 2) a copy of the docket records where the non-received Office action would have been entered had it been received.

I searched the 2373/103 file jacket and did not find a Notification of Missing Requirements. I also examined the Bromberg & Sunstein docket record covering all matters for a due date of December 30, 2001, corresponding to the due date of a response to a Notification of Missing Requirements mailed on October 30, 2001. If a Notification of Missing Requirements for application 09/936,280 (docket number 2373/103) had been received, receipt would have resulted in an entry under December 30, 2001 and would have appeared on page 5 of the enclosed report entitled, "Prosecution History Report, Complete docket history of Bromberg & Sunstein for December 30, 2001." I found no entry requiring action associated with 2373/103 for December 30, 2001.

In addition, I examined the prosecution history for the entire docket corresponding to the 2373/103 matter. If a Notification of Missing Requirements for application 09/936,280 (docket number 2373/103) had been received, receipt would have resulted in an entry on December 30, 2001 and would have appeared on Page 3 of the enclosed report entitled, "Prosecution History Report, Complete docket of Application No. 09/936,280, All Deadlines." I found no entry of a Notification of Missing Requirements.

The Office action also required submission of a new declaration in compliance with 37 CFR 1.497(a)-(b) and 37 CFR 1.63. A new declaration in compliance is enclosed with this petition.

In view of the satisfaction of the requirements conveyed in the decision of September 5, 2003 with respect to the "Petition to Reset Period for Response Due to Non-Receipt of Action" submitted on November 5, 2002, Applicant requests that the period for responding to the Notification of Missing Requirements be restarted, and the Completion of Filing Requirements be considered as received on time.

Please charge the petition fee of \$130.00 to Deposit Account 19-4972. If any additional fees are required, you are hereby authorized to charge Deposit Account 19-4972.

Dated: November 5, 2003

Respectfully submitted,

Kenneth S. Sachar

Registration No. 54,418 Attorney for Applicant

Bromberg & Sunstein LLP 125 Summer Street Boston, MA 02110-1618 (617) 443-9292

02373/00103 274927.1

Prosecution History	tion Application Filing Status	-ALLOWANCE 09/072,242 04-May-1998 Issued	-ALLOWANCE 09/072,242 04-May-1998 Issued 0-Dec-2001	-ALLOWANCE 09/072,242 04-May-1998 Issued	(3.5 (HD) 08/567,325 05-Dec-1995 Issued	FENT WORKING? 90 907 593.9 27-Apr-1990 Granted	3.5 (HD) 08/472,212 07-Jun-1995 Issued	ional Phase - 30 99/29183 09-Dec-1999 Entered aths NSJ Due Date	09/524 931 14-Mar-2000	107,42070
Action US-ALLOWANCE lken: 10-Dec-2001 US-ALLOWANCE	US-ALLOWANCE lken: 10-Dec-2001 US-ALLOWANCE	US-ALLOWANCE	Date Taken: 10-Dec-2001	US-ALLOWANCE Taken: 10-Dec-2001	Tax 3.5 (HD) 08/56' Date Taken: 01-Jan-1111	PATENT WORKING? aken: 01-Jan-1111	Tax 3.5 (HD) 08/47/ Date Taken: 11-Jul-2001	National Phase - 30 months NSJ Du	US-OA	Date Taken: 16-Oct-2001
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Client Matter#	Country	, Attori	Due Country Attorney Date	Reason for Date/ Indicator	Action	Application	Filing	Status
1062.C51	NS	SJP NSJ KS	30-Dec-2001	RECD IDS RETURN PC? Due Date Date Takei	URN PC? US-SENT IDS Date Taken: 14-Jan-2002	09/866,888	29-May-2001	Published
1118.126	SO	RMA	30-Dec-2001	Tax 3.5 (HD) Due Date Date Take	Tax 3.5 (HD) Date Taken: 24-Jul-2001	683,233	18-Jul-1996	Issued
1118.171	Л	AJS KLW	30-Dec-2001	Sent application to cl? Due Date Date	to cl?	2000-620866	01-Jun-2000	Published
1348.105	Sn	RMA KLW	30-Dec-2001	Sent copy of recordals to cl? Due Date	US-SENT ASSIGNMENT	09/300,633	27-Apr-1999	Issued
1464.149	Sn	BJC TMM DD	30-Dec-2001 Resp. Sent	Date Taker ORDER FORMAL DRAWINGS Due Date 01-Jan-1111 Date Taker	Date Taken: 14-Dec-2001 AL US-OA . . Date Taken: 01-Jan-1111	. 09/834,987	13-Apr-2001	Abandoned
1464.149	ns	BJC TMM DD	30-Dec-2001 Resp. Sent	OA to cl? Due Date 01-Jan-1111 Date Taker	US-OA Date Taken: 01-Jan-1111	09/834,987	13-Apr-2001	Abandoned
1585.L08	US	WJS	30-Dec-2001	Rec'd Return Receipt Due Date	ceipt SENT ISSUED PATENT TO CL Date Tokon: 11 Log 1111	900'368'000	17-Sep-1999	Transfer
1822.113	ns	TMM KLW CS	30-Dec-2001	Amendment for Pub Ddln Due Date Date Taker	Pub Ddin US-FILING RECEIPT ISSUED Date Taken: 01-Jan-1111	09/918,702	31-Jul-2001	Published

Tuesday, September 09, 2003	nber 09, 20	903	Due	Prosecution History Reason for Date/ Action	Listory Action	Application	Filing	Page 3
Matter#	Country	Country Attorney Date	ey Date	Indicator				Status
1822.117	ns	TIMM KLW CS	30-Dec-2001	Recd Email of Formal Drawings? Due Date Date Take	ormal FORMALS TO GALLAGHER Date Taken: 21-Nov-2001	09/995,452	27-Nov-2001	Published
1822.117	WO	TMM KLW CS	30-Dec-2001	Recd Email of Formal Drawings? Due Date Date Take	ormal FORMALS TO GALLAGHER Date Taken: 11-Feb-200	IB01/02858	27-Nov-2001	Transfer
1832.101	NS	AJS KLW	30-Dec-2001	NORA to cl? Due Date Date Take	US-SENT ASSIGNMENT Date Taken: 13-Dec-2001	60/298,783	15-Jun-2001	Withdrawn
1920.107	OM	JJS	30-Dec-2001	Recd NP instructs fr cl? Due Date Date Take	is fr cl? PCT-SENT PCT-ENP LTR Date Taken: 25-Mar-2002	00/27206	02-Oct-2000	Entered
1945.A14	WO	SJP	30-Dec-2001	NP INSTRUCTIONS FR CL??? Due Date Date Take	ONS FR NP INSTRUCTIONS FR CL??? Date Taken: 01-Jan-1111	00/20347	26-Jul-2000	Entered
1945.A14	WO	SJP	30-Dec-2001	Chapt II Natl Phase 29 Due Date Date Take	ase 29 PCT-CHAPTER II (Dkt Priority) Date Taken: 01-Jan-1111	00/20347	26-Jul-2000	Entered
2119.104	Sn	AJS VEL	30-Dec-2001	RECD IDS RETURN PC? Due Date Date Take	URN PC? US-SENT IDS Date Taken: 26-Dec-2001	09/893,311	27-Jun-2001	Published

Story Page 4	Action Application Filing Status	SION US-OA 09/260,243 02-Mar-1999 Pending Date Taken: 30-Jan-2002	1? New Matter Docketed 10/052,128 17-Jan-2002 Transfer Date Taken: 17-Jan-2002	Z from New Matter Docketed 10/052,128 17-Jan-2002 Transfer Date Taken: 17-Jan-2002	SION US-OA 09/390,055 03-Sep-1999 Abandoned Date Taken: 26-Feb-2002	n as JP-NP INST TO FA 2001-505440 27-Jan-2000 Published Date Taken: 26-Dec-2001	c App KR-NP INST TO FA 2001-701613 27-Jan-2000 Published Date Taken: 14-Jan-2002 :	KR-NP INST TO FA 2001-701613 27-Jan-2000 Published 14-Jan-2002	s MX-NP INST TO FA 2001/013007 27-Jan-2000 Pending	. 20107-2001 NZ-NP INST TO FA 516105 27-Jan-2000 Issued
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Prosecution History

Tuesday, September 09, 2003

Status	0 Issued	001 Entered		00 Pending		0 Pending			0 Pending			0 Pending			0 Pending			0 Pending	
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Application	516105	01/07419		2,361,413		2,361,413			2,361,474			2,361,474			2,361,410			2,361,410	
Action	NZ-NP INST TO FA	Date Taken: 22-Jan-2002 PCT-ISR	Date Taken: 14-Jan-2002	Assignment fr fa for		Date Laken: 25-Jan-2002 n client? Assignment fr fa for	execution	Date Taken: 17-Jan-2002	Assignment fr fa for execution		Date Taken: 25-Jan-2002	Assignment fr fa for execution		Date Taken: 17-Jan-2002	Assignment fr fa for execution		Date Taken: 25-Jan-2002	Assignment fr fa for execution	
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Page 6	Status	Pending	Abandoned	Transfer	Published	Published	NotEntered	LetAbandon	LetAbandon
	Filing	04-Feb-2000	30-Aug-2001	10-Nov-2000	04-Sep-2001	30-Oct-2001	30-Oct-2001	19-Jun-2001 I	06-Mar-2000 L
	Application	2,361,477	09/943,454	.36 2/13/98 00310025.2	09/945,902	10/012,691	01/47999	60/299,277	09/936,772
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Page 7	Status	LetAbandon	Entered	Issued	Issued	Issued	Issued	Pending
	Filing	06-Mar-2000	23-Jun-2000	17-Jul-2001	18-Feb-1999	29-Sep-1997	30-Jun-1999	28-Apr-2000
	Application	09/936,772	EP00/05863	09/907,329	09/155,660	09/269,894	09/720,295	, LED US filing date: 4/19/02
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Page 8	SI	ing		- 0	shed
•	Status	Pending		Issued	Published
	Filing	28-Apr-2000		13-Feb-1998	02-Feb-2001
	Application	10/018,311		98909699.5	09/775,458
History	Action	PCT-US NAT'L	Date Taken: 07-Apr-2002	Ltr fr fa encg DK translation	Date Taken: 20-Dec-2001 b to Notice New/Revised Proj Pub Date Taken: 13-Dec-2001
Prosecution History	Reason for Date/ Indicator	Recd Filing Receipt?	Due Date Date Tal	Sent trans as filed to cl? Due Date	Date Tal Sent notice of pub to Due Date Date Tal
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Client Matter#	Sub Date Case Country Attorney Due	Attorn	Date ey Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	SN	TMM	10-Apr-2000	Amend for 1st Publ Ddln (HD)	Amend for 1st P (HD)	Amend for 1st Publ Ddin 09/936,280 (HD)	10-Mar-2000	Pending
O)		· · · · · · · · · · · · · · · · · · ·		Due Date Date Take	Kemarks: Date Taken: 01-Jan-1111	Applicant of PC 1: Oil Mallee Company of Australia P1 Y LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	allee Company of a filed 3/10/00;	Australia P.1 Y at Perth Office
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			į			Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	A.P. (Tony) Mizzi (t Perth Office
2373.103	SN	TMM	24-Sep-2001	Recd new app return pc?	PCT-US NAT'L PHASE APP FILED	PHASE 09/936,280	10-Mar-2000	Pending
		KLW		Due Date Date Take	Remarks: Date Taken: 19-Sep-2001	Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	allee Company of thiled 3/10/00; A.P. (Tony) Mizzi a	Australia PTY It Perth Office

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Client Matter#	Sub Date Case Country Attorney Due	/ Attorn	Date ey Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	SU	TMM	TMM 10-Oct-2001	POA/AZ to cl?	PCT-US NAT'L PF APP FILED	PCT-US NAT'L PHASE 09/936,280 APP FILED	10-Mar-2000	Pending
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2373.103	NS	TMM	TMM 19-Oct-2001	Call PTO re app no (see remarx	PCT-US NAT'L PHASE APP FILED	1ASE 09/936,280	10-Mar-2000	Pending
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Wednesda	Wednesday, November 05, 2003	2003		Prosecution History	History			Page: 3
Client Matter#	Sub Case Country Attorney Due	Attorn	Date ley Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	SN	TMM	28-Nov-2001	Rec POA, AZ & SE fr client?	PCT-US NAT'L PHASE APP FILED	1ASE 09/936,280	10-Mar-2000	Pending
		KLW		Due Date	Remarks: A	Applicant of PCT: Oil Mallee Company of Australia PTY	allee Company of	Australia PTY
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2373.103	SN	TMM	10-Dec-2001	IDS (HD)	PCT-US NAT'L PHASE APP FILED	1ASE 09/936,280	10-Mar-2000	Pending
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					Z U S	NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office	filed 3/10/00; A.P. (Tony) Mizzi	at Perth Office
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2373.103	SN	TMM	03-Sep-2002	Rec'd COFR pc?	US-SENT COFR	09/936,280	10-Mar-2000	Pending
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2373.103	NS	TMM	13-Sep-2002	COFR to cl? Due Date	US-SENT COFR Remarks: Ap	ENT COFR 09/936,280 10-Mar-2000 Pending Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY	10-Mar-2000 allee Company of	Pending Australia PTY
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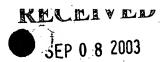
Wednesda	Wednesday, November 05, 2003	, 2003		Prosecution History	1 History			Page: 4
Client Matter#	Sub Case Country Attorney Due	Attorn	Date ey Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	SN	TMM	13-Oct-2002	Rec'd Filing Receipt?	US-SENT COFR	09/936,280	10-Mar-2000	Pending
		¥ Y		Due Date Date 7	Remarks: Applic Date Taken: 18-Mar-2003 LTD; NP of US fili	Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY Mar-2003 LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02;	allee Company of filed 3/10/00;	Australia PTY
					Send of Gr	Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	A.P. (Tony) Mizzi	at Perth Office
2373.103	Sn	TMM	13-Oct-2002	Rec'd Not Accept of Appl?	ppl? PCT-US NAT'L PHASE APP FILED	SE 09/936,280	10-Mar-2000	Pending
		KLW		Due Date	Remarks: Applic	Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY	allee Company of	Australia PTY
				Date	Date Taken: 18-Mar-2003 LTD. NP o US fi	LTD., NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02;	filed 3/10/00;	
					Send of Gr	Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	A.P. (Tony) Mizzi	at Perth Office
2373.103	SN	TMM	13-Oct-2002	Rec'd formal filing date?	PCT-US NAT'L PHASE APP FILED	SE 09/936,280	10-Mar-2000	Pending
		KLW		Due Date		Applicant of PCT: Oil Mallee Company of Australia PTY	allee Company of	Australia PTY
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					Send of Gr	Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	A.P. (Tony) Mizzi	at Perth Office
2373.103	NS	TMM	13-Oct-2002	Recd NORA? Due Date	US-SENT COFR Remarks: Appli	ENT COFR 09/936,280 10-Mar-2000 Pending Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY	10-Mar-2000	Pending Australia PTV
					Date Taken: 02-Sep-2003 LTD; NP of US fili	LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	filed 3/10/00;	at Perth Office

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Client Matter#	Sub Case Country Attorney Due	Attori	Date ney Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	SN	TMM	12-Nov-2002	Petition as filed to cl?	US-PETITION FILED Remarks: Applic	ETITION FILED 09/936,280 10-Mar-2000 Pending Remarks: Annicant of PCT: Oil Mallee Company of Australia PTY	10-Mar-2000	Pending
					Date Taken: 11-Nov-2002 LTD; NP of US fili	LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	filed 3/10/00; A.P. (Tony) Mizzi	at Perth Office
2373.103	SN	TMM	15-Nov-2002	Respond to cl re stmt?	Recd fax fr cl re stmt	09/936,280	10-Mar-2000	Pending
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2373.103	SO	TMM	05-Dec-2002	Recd return pc?	US-PETITION FILED	09/936,280	10-Mar-2000	Pending
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2373.103	SN	TMM	05-Mar-2003	Recd decision on petition? Due Date	US-P	ETITION FILED 09/936,280 10-Mar-2000 Pending Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY Sea, 2003 LTD:	10-Mar-2000 allee Company of	Pending Australia PTY
				Date Lan		NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	filed 3/10/00; A.P. (Tony) Mizzi	at Perth Office

Wednesda	Wednesday, November 05, 2003	2003		Prosecution History	History			Page: 6
Client Matter#	Sub Date Case Country Attorney Due	Attorn	Date ey Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	SN	TMM	10-Mar-2003	LF: 1st oa	PCT-US NAT'L PHASE APP FILED	ASE 09/936,280	10-Mar-2000	Pending
		KLW		Due Date	Remarks: Application of Gri	Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	allee Company of filed 3/10/00; A.P. (Tony) Mizzi	Australia PTY
2373.103	SN	TMM	27-Mar-2003	Filing receipt to client?	US-FILING RECEIPT ISSUED	PT 09/936,280	10-Mar-2000	Pending
		KLW		Due Date Date Tak	narks: 2003	Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	allee Company of filed 3/10/00; A.P. (Tony) Mizzi	Australia PTY at Perth Office
2373.103	NS	TMM	15-Sep-2003	Copy NORA to cl? Due Date Date Tak	Pate Taken: 26-Sep-2003 LTD; US fill Send of Grii	ENT COFR 09/936,280 10-Mar-2000 Pending Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY Sep-2003 LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	10-Mar-2000 allee Company of filed 3/10/00; A.P. (Tony) Mizzi	Pending Australia PTY at Perth Office
2373.103	US	TMM	15-Sep-2003	Copy decision to cl? Due Date Date Tak	Pate Taken: 09-Sep-2003 LTD; US fili Send c Send c Of Grif	Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY Sep-2003 LTD; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	10-Mar-2000 allee Company of filed 3/10/00; A.P. (Tony) Mizzi	Pending Australia PTY at Perth Office

Wednesda	Wednesday, November 05, 2003	5, 2003		Prosecution History	istory			Page: 7
Client Matter#	Sub Case Country Attorney Due	ry Attor	Date ney Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	US	TMM	15-Sep-2003	New POA to cl for signing? US-PETITION FILED Due Date Remarks: Applic Date Taken: 09-Sep-2003 LTD; NP of US fili Send c	or signing? US-PETITION FILED 09/936,280 10-Mar-2000 Pending **Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY **Date Taken: 09-Sep-2003 LTD; **NP of PCT/AU00/00171 filed 3/10/00; **US filing date: 8/13/02; **Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	Applicant of PCT: Oil Mallee Company LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) M of Griffith Hack	Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	Pending Australia PTY at Perth Office
2373.103	US	TMM	31-Oct-2003	Recd exec'd decl/POA fr cl? US-PETITION FILED Due Date Remarks: Applica Date Taken: 29-Oct-2003 LTD; NP of P US filin Send co of Griffi	/POA fr cl? US-PETITION FILED 09/936,280 10-Mar-2000 Pending **Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY **Date Taken: 29-Oct-2003 LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	Applicant of PCT: Oil Mallee Company LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) M of Griffith Hack	Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	Pending Australia PTY at Perth Office
2373.103	US		TMM 05-Nov-2003 KLW	Response to petition due (HD) Due Date	US-PETITION FILED 09/936,280 10-Mar-2000 Pending Remarks: Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	Applicant of PCT: Oil Mallee Company LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) M of Griffith Hack	Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack	Pending Australia PTY at Perth Office



BROMBERGE & SUNSTITUTE TRADEMARK OFFICE P.O. Box 1450

DOCKETED

Bromberg & Sunstein LLP 125 Summer Street Boston, MA 02110-1618

In re Application of

GILES, Richard Courthope, et al.

Application No.: 09/936,280

PCT No.: PCT/AU00/00171

Int. Filing Date: 10 March 2000

Priority Date: 10 March 1999 Attorney Docket No.: 2373/103

For:

TREE HARVESTING APPARATUS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to "Petition to Reset Period For Response Due to Non-Receipt of Action," filed with the United States Patent and Trademark Office on 05 November 2002. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 10 March 2000, applicants filed international application PCT/AU00/00171. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 September 2000. On 28 September 2000, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 10 September 2001.

On 10 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, inter alia, the U.S. Basic National Fee.

On 30 October 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that a declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 13 August 2002, applicants submitted "Completion of Filing Requirements," indicating that applicants had not received a Notification of Missing Requirements accompanied by an executed declaration.

On 05 November 2002, applicants submitted the instant petition under 37 CFR 1.181, accompanied by a copy of the executed declaration.

On 13 March 2003, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application's 35 USC 371 dates were 13 August 2002.

Application No.: 09/936,280

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not Received, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) has been satisfied.

Items (2) and (3) have not been satisfied.

The declaration incorrectly identifies the filing date of the international application. Though declaration complies with 37 CFR 1.497(a)-(b), it does not comply with 37 CFR 1.63. Additionally, the declaration appears complete, but it is numbered page 1 of 9 through page 4 of 9. A new declaration in compliance with 37 CFR 1.497(a)-(b) and 37 CFR 1.63 is required.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The Notification of Acceptance mailed 13 March 2003 is **VACATED**.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Boris Milef

PCT Legal Examiner

PCT Legal Administration

Erin M. Pender Attorney Advisor

PCT Legal Administration

SinM Rendon

Telephone:

703-305-0455

Facsimile:

703-308-6459

COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL, CONTINUATION, OR C-1-P)

As a below named inventor, I hereby declare that

TYPE OF DECLARATION

This declaration is for a national stage of PCT application.

INVENTORSHIP IDENTIFICATION

My residence, post office address and clinenship are as stated below, next to my name. I believe that I am an original, first and joint inventor of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

Tree Harvesting Apparatus

SPECIFICATION IDENTIFICATION

The specification was filed on March 10, 2000, as International Application Number PCT/AU00/00171.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hearby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37. Code of Pederal Regulations, § 1.56; and which is material to the examination of this application, namely, information where there is a substantial Methood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent.

PRIORITY CLAIM (35 U.S.C. 55 119(a) (d), (f) 172, and 365(a) and (b))

I hereby claim foreign priority benefits under Title 35, United States Code, §§ 119(a)-(d) of any foreign application(s) for puzzn or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below say foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

Such applications have been filed as follows:

Declaration and Power of Amorony-page 1 of 3

to 2003 Manhew Bender & Company, his., a mamber of the LodsNinds Group.

PRIOR FOREIGN APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION

COUNTRY	APPLICATION NUMBER	DATE OF FILING DAY, MONTH, YEAR	PRIORITY CLAIMED
rain de la Carlana.			UNDER 37 U.S.C. SECTION 119
Australia	PP9126AU	10 March 1999	ycs.

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Tradomark Office connected therewish.

APPOINTED PRACTITIONER(S)	REGISTRATION NUMBER(S)	
Bruce D. Sunstein	27,234	
Robert M. Asher	30,445	
Timothy M. Murphy	33,198	
Steven G. Sounders	36,265	
Samuel J. Petuchowski	37,910	
Jeffrey T. Klayman	39,250	
John J. Stickevers	39,387	
Elizabeth P. Morano	42,904	
Jay Sandvos	43,900	
Alexander J. Smolenski	47,953	
John L. Cooway	48.241	
Kenneth S. Sachar	54,418	
Shaun Montana	54,320	
Charlton Shen	54,442	
£'		

Thereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

SEND CORRESPONDICICE TO

DERECT TOLEPHONE CALLS TO

Timothy M Murphy 125 Silliamer Street

Trinoby 64, Murphy 617-443-9292

BORNO, MA 02110-1618 UJ. 02101

DECLARATION

Thorsely declare that all statements made herein of my own introduced are true and that all claiments made on informations and balled are believed us to true; and further that there summers used to allow so made are preschable by these or implements, or both, under Section 1001 of Title 18 of the Twined States Code, and that each willful these are tensors may proportion for writing of the application or any patent based contracts.

SIGNATURE(5)

Nichard Courthepe Giles

Country of Ottospetip AU

Inventor's senators
Date Scal November 2003 Grunny of Ont
Bestdence Developp AU
Pen Office Address Kiver Road Developer WA 0211 AU

Hadey Lawren Pederick
Investors's signature
Deta Serie November 2003 Country of Citis
Randonsea Wagin AU
Post Office Address 35 Verpe Street, Wagin WA 6015 AU Country of Citizenship AU

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** TOTAL PAGE : 001 **